vibration. If the arm was at the end and no wheel to support it, it would naturally drag on the track." Respondents' witness testified that the difference in the arm they used, which does not include the wheel for supporting the arm, is that when the arm "has a wheel under the end as it runs over the track, it doesn't have any vibration"; that vibration makes the lure "jump up and down" giving it a more lifelike appearance.

We agree with the decision of the Circuit Court of Appeals that infringement of letters patent No. 1,379,224, was not established.

Patent No. 1,507,440. This patent is for "Housing for Conveyor Cars and Tracks". It relates to the casing element called for by patent No. 1,379,224. The claims as originally presented were rejected "as indefinite and as aggregations". Other claims were substituted, which included claim 1 of the patent, as allowed, as follows:

"1. In a housing for covering tracks and cars having laterally extending arm operated upon said track, the combination of posts set in the ground at the sides of said track, timbers attached to said posts to form a frame, and boards attached to said timbers and posts to form a continuous enclosure above said track, and having a continuous opening in one side of said housing adapted to permit extension of the laterally extending arm, therethrough, and truss rods attached to the closed side of the housing adapted to support the side of said housing above the said continuous opening".

All the elements in this claim were old. So far as the continuous opening "adapted to permit extension of the laterally extended arm" is concerned, there was anticipation by Bertram, 1903, No. 729,120, whose housing for a third or electric rail disclosed a similar method of contact with an outside track, in providing for a casing (enclosing the electric rail) "in which is formed a longitudinal slot or opening". A comparison of claim 1 of the patent with the other claims which were rejected and canceled, shows that the distinctive features of the claim allowed were that the opening was placed "in one side of said housing" and that there was a specification of a particular sort of support, that is, "truss rods attached to the closed side of the housing". In other claims allowed, the reference is to "adjustable stay rods".

The Circuit Court of Appeals for the Tenth Circuit, in the instant case, questioned the patentability of the device and said that if patentability existed at all, it must depend upon the truss rod support or the adjustable stay rods, neither of which the respondents use. We agree with this statement, and we are also of the opinion, as was the Circuit Court of Appeals for the Sixth Circuit, (*Smith* v. *Springdale Amusement Park*, *supra*), that supplying the feature of the truss rods and the adjustable stay rods did not constitute invention. To provide such supports would be but a step obvious to any skilled mechanic. *Atlantic Works* v. *Brady*, 107 U. S. 192, 200; *Railroad Supply Company* v. *Elyria Iron & Steel Company*, 244 U. S. 285, 292; *Powers Kennedy Contracting Corporation* v. *Concrete Mixing Conveying Company*, 282 U. S. 175, 186.

Decree affirmed.

A true copy.

Test:

Clerk, Supreme Court, U. S.